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25 BANK OF AMERICA, N.A.

26 **UNITED STATES DISTRICT COURT**

27 **DISTRICT OF NEVADA**

28 ALEXIS GURSHIN, an individual,

CASE NO. 2:15-cv-00323-GMN-VCF

Plaintiff,

**JOINT STIPULATION TO EXTEND NON-
EXPERT PRE-TRIAL DEADLINES SET
FORTH IN AMENDED JOINT
DISCOVERY PLAN AND SCHEDULING
ORDER [DKT. #24]**

vs.

BANK OF AMERICA, NATIONAL
ASSOCIATION; DOES 1 through X, and
ROE BUSINESS ENTITIES I through X,
inclusive,

**Pursuant to Fed. R. Civ. P. 16(b)(4) and
Local Rules 6-1 and 26-4**

Defendants.

**(FIRST REQUEST REGARDING THESE
DEADLINES)**

29
30 Complaint Filed: 10/28/2014
31 Complaint Served: 2/4/2015
32 Removal Date: 2/24/2015

1 **Additional Plaintiff's Counsel**

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1 The parties, Plaintiff Alexis Gurshin (“Plaintiff”) and Defendant Bank of America, N.A.
2 (“BANA”) (collectively, the “Parties”), through their respective attorneys of record, hereby move
3 the Court to extend the non-expert pre-trial deadlines set by this Court in the May 5, 2015,
4 Amended Order Granting Joint Discovery Plan and Scheduling Order (Dkt. #24).

RECITALS

6 WHEREAS, the Amended Order Granting Joint Discovery Plan and Scheduling Order
7 (Dkt. #24) set the following dates (among other deadlines that have either already expired and the
8 two expert disclosure deadlines for which the Parties already sought and received an extension):

9 1. **Interim Status Report:** September 15, 2015

10 2. **Discovery Cut-Off Date:** November 11, 2015

11 3. **Dispositive Motion Deadline (File and Service):** December 11, 2015

12 4. **Joint Pretrial Order:** January 12, 2016

14 WHEREAS, Fed. R. Civ. P. 16(b)(4) and Local Rule 26-4 require good cause and judicial
15 consent as prerequisites to modifying a scheduling order;

17 WHEREAS, on August 6, 2015, the Parties filed a Joint Stipulation to Extend Expert
18 Witness Disclosure Deadlines Set Forth in Amended Joint Discovery Plan and Scheduling Order,
19 which was granted by this Court in an Order dated August 7, 2015 [Dkt. # 32], such that the
20 current deadline for Expert Reports and Expert Disclosures is now October 26, 2015, and the
21 current deadline for Expert Rebuttal Reports and Disclosures is now November 27, 2015;

23 WHEREAS, the current discovery cut-off date of November 11, 2015 pre-dates the new
24 Expert Rebuttal Reports and Disclosures deadline and therefore does not allow time for expert
25 discovery following the disclosure of experts;

27 WHEREAS, based on the progress of the above-referenced action, the Parties believe a
28 one-hundred (100) day extension of all remaining pre-trial deadlines (with the exception of the

1 expert disclosure deadlines for which the Parties already sought and received an extension to
 2 October 26, 2015 for experts, and November 27, 2015 for rebuttal experts) is necessary to resolve
 3 outstanding discovery issues, to complete outstanding document productions prior to the
 4 preparation of expert reports, and to conduct expert discovery following the recently continued
 5 expert disclosure deadlines;

6

7 WHEREAS, the Parties have completed the following discovery:

- 8 1. The parties did their Initial Disclosures in May 2015, and exchanged some documents
 and information for the May 15, 2015 ENE.
- 9 2. Defendant propounded written Interrogatories, Requests for Admission, and Requests
 for Production of Documents. After two requested extensions, in July 2015, Plaintiff
 provided written responses to Defendant's Interrogatories, Requests for Admission,
 and has provided written responses to Defendant's 1st (and only) Set of Requests for
 Production of Documents.
- 10 3. In late July 2015, Defendant claimed it did not receive Plaintiff's written responses to
 Defendant's 1st Set of Requests for Production of Documents when originally served
 and the parties are attempting to sort out the details and problems with service. The
 Parties are further currently meeting and conferring regarding the sufficiency of
 Plaintiff's written discovery responses.
- 11 4. Plaintiff has issued four document productions, the last being on August 13, 2015.
- 12 5. Pursuant to Defendant's Requests for Production of Documents and a prior agreement
 between counsel, Plaintiff has produced some, but not all, responsive documents. The
 Parties are currently meeting and conferring regarding these outstanding documents.
 Plaintiff produced over one-thousand pages of documents in her second and third
 productions on July 7 and July 9, 2015.
- 13 6. The Parties entered into a Stipulation for a Protective Order, which was submitted and
 approved by this Court on September 1, 2015.
- 14 7. In July and August 2015, Plaintiff propounded one set of written Interrogatories, one

1 set of Requests for Admission, and four sets of Requests for Production of Documents,
 2 some of which Defendant claims they did not receive when originally served. On a
 3 requested extension, Defendant has provided written responses to all sets of discovery
 4 (except one set of Requests for Production of Documents which will be due at the end
 5 of this week), and has produced over 1200 documents as of September 3, 2015.

- 6 8. Plaintiff has requested inspection of certain original documents. The Parties are
 7 currently meeting and conferring regarding the requested inspections.
- 8 9. Defendant has propounded numerous subpoenas for employment records to Plaintiff's
 10 various employers subsequent to her employment with Defendant, and Defendant has
 11 propounded numerous subpoenas for medical records to Plaintiff's medical providers.
 12 Defendant has received some records responsive to said subpoenas, while some records
 13 are outstanding.
- 14 10. Defendant took the first session of Plaintiff's deposition during an all-day deposition
 15 on August 26, 2015. Plaintiff has agreed to appear for a second session of her
 16 deposition, and the parties are currently meet and conferring to select a mutually
 17 agreeable date, which now looks to be October 13, 2015.
- 18 11. Defendant took and completed the depositions of Plaintiff's parents, Suzanne and
 19 Bradlee Gurshin, on August 27, 2015.

20 WHEREAS, the following discovery remains to be completed because either responses are
 21 outstanding and/or the Parties are currently engaging in meet and confer efforts to resolve
 22 outstanding disputes:

- 23 1. As indicated above, the Parties are currently meeting and conferring regarding the
 24 sufficiency of Plaintiff's written discovery responses and the outstanding written
 25 responses to Defendant's Requests for Production of Documents.
- 26 2. As indicated above, Defendant is currently preparing responses to Plaintiff's fifth set of
 27 requests for production of documents, which have not yet become due.
- 28 3. As indicated above, some records responsive to record subpoenas served by Defendant

1 remain outstanding.

2

3 4. Plaintiff anticipates noticing various depositions of relevant Bank representatives
4 and/or Bank employees (former and current), two of which will likely be on October
5 20 and 21, 2015. The parties are currently meeting and conferring to select mutually
6 agreeable dates for depositions. One witness, Branch Manager and alleged harasser,
7 Jarrett Wu, no longer works for Bank of America and resides in Honolulu. Another,
8 the individual who investigated Plaintiff's internal harassment complaint, Sheri
9 Madrid, no longer works for the Bank and resides in Arizona. Plaintiff has indicated
10 an intent to depose former Bank employee and Employee Relations Manager, Yolanda
11 Vera, who prepared a response to Plaintiff's EEOC Charge. Ms. Vera also resides in
12 Arizona. Defendant contends that Ms. Vera does not possess knowledge relevant to
13 this lawsuit; the Parties are currently meeting and conferring regarding Ms. Vera's
14 deposition. Defendant declines to bring Mr. Wu, Ms. Madrid, or Ms. Vera, who are
15 not parties to this lawsuit or current employees of Defendant, to Nevada to be deposed.

16 5. The Parties intend to meet and confer regarding any potential medical or psychiatric
17 examination(s) of Plaintiff.

18 6. At Plaintiff's deposition, Plaintiff's counsel disclosed that Plaintiff previously only
19 obtained records from her health care providers pursuant to a limited release, and
20 Plaintiff disclosed additional medical care. Plaintiff promised to obtain and produce to
21 BANA these additional records. The parties are currently meeting and conferring
22 regarding the production of a complete set of medical records.

23 WHEREAS, despite the diligence of the Parties throughout this litigation, in light of the
24 outstanding discovery issues and outstanding discovery requests, the Parties cannot reasonably
25 meet the current pre-trial deadlines in light of the recently continued expert disclosure deadlines,
26 which were recently continued because the information and documents at issue in the outstanding
27 discovery identified above are critical to any expert's analysis and preparation of an expert report;

1 WHEREAS, the outstanding discovery issues and outstanding discovery requests could not
2 reasonably have been foreseen at the time of the issuance of the Parties' filing of the Joint
3 Discovery Plan and Scheduling Order (Dkt. #22);
4

5 WHEREAS, undersigned Plaintiff's counsel (Ms. England) has two other cases whose
6 deadlines are similar to the ones in this case, and with the intervening Thanksgiving and December
7 holidays, the parties agree this additional time will enable them to complete discovery with some
8 flexibility;
9

10 WHEREAS, the Parties do not believe the one-hundred (100) day extension sought hereby
11 will prejudice any party or result in undue delay;
12

13 WHEREAS, this is the Parties' first request for an extension of the pre-trial deadlines
14 identified in this Stipulation, and only the second request for an extension of any dates in this
15 matter;
16

17 WHEREAS, no trial date has been set in this matter;
18

19 Accordingly, the Parties have mutually agreed upon an extension of the remaining pre-trial
20 deadlines (with the exception of the expert disclosure deadlines for which the Parties already
21 sought and received an extension) of one-hundred (100) days, during which the parties will
22 diligently work to exchange all outstanding documents, complete all meet and confer efforts, file
23 any necessary discovery motions, and complete all discovery based on the Court's rulings. This
24 Stipulation is made in compliance with Local Rule 26-4 as it is being filed within twenty-one (21)
25 days before the expiration of each of the relevant deadlines.
26 ///
27 ///
28 ///

STIPULATION

NOW, THEREFORE, based on the foregoing, the Parties hereby stipulate and move the Court for an Order extending the following deadlines as follows:

1. **Interim Status Report:** December 21, 2015
2. **Discovery Cut-Off Date:** February 19, 2016
3. **Dispositive Motion Deadline (File and Service):** March 21, 2016
4. **Joint Pretrial Order:** April 19, 2016

IT IS SO STIPULATED.

Dated: September 14, 2015

Dated: September 14, 2015

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Attorneys for Defendant BANK OF
AMERICA, N.A.

IT IS SO ORDERED:

UNITED STATES MAGISTRATE JUDGE

9-15-2015

DATED: